Mr. Gopalachar.—

Is it not because tigers are prevented from being shot, that cattle mortality is increasing ?

First Member of Council.—

Not necessarily.

Mr. Subbanna Naik.—

Is the number of cattle mortality on account of wild animals accurate ?

Second Member of Council.—

May not be quite accurate ?

Mr. Dyave Gowda.—

As nearly 5,000 cattle are killed in one half year, is it not necessary to stop this havoc ?

Second Member of Council.—

Yes.

Mr. Dyave Gowda.—

But you have ordered that tigers should not be killed.

Second Member of Council.—

This subject has been fully discussed already. We shall consider the matter.

GOVERNMENT BUSINESS.

Bill to amend the Income-Tax Regulation, 1923.—*Contd.*

THE FIRST MEMBER OF COUNCIL said that the Income-Tax Bill was discussed in detail on the 26th instant and that only one point was left for further discussion It was about item No. (9) " Empowering the framing of rules to find out the income, profits, etc., liable to tax in cases in which they are derived partly from agricultural and partly from business."

MR. NILGIRI SANJEEVIAH asked whether the agricultural income did not come in for levy of tax under the present rules.

THE FIRST MEMBER OF COUNCIL replied that agricultural income was exempt from income-tax.

MR. NILGIRI SANJEEVIAH said that in 1924 an amendment to the Municipal Regulation brought up by Mr. Karnick Krishnamurthi Rao to the effect that goats should not be taxed was discussed and passed by the Representative Assembly and Government over-ruled the decision of the House and sanctioned the tax on goats. Even in the present case he feared that Government might go on making changes from time to time. He thought that giving a general power as proposed would entail difficulties to the people later. For instance, by virtue of this power Government might proceed to tax even jaggery as the product of industrial concern. If only tea companies came under the amendment he had no objection.

THE FIRST MEMBER OF COUNCIL replied that the proposal related to mixed agricultural and business incomes and that it was not possible to specify all cases to be dealt with.

THE SECOND MEMBER OF COUNCIL added that jaggery could be taxed under the existing Regulation although it was not done. The object of the amendment was to make the point clear.

MR. NAGAPPA SETTY stated that tea companies were still in their infancy and should not be discouraged.

THE FIRST MEMBER OF COUNCIL replied that the law as it stood gave power to tax tea companies and the amendment was for regulating the method of assessment in a manner which would be convenient to Government and also to assessees.

MR. HUTCHVEERE GOWDA suggested that the present Regulation might be left as it was to which the First Member replied that it was not quite clear in some respects and therefore required amendment.

MR. S. C. MALLIAH stated that the amendment did not definitely say that its application was meant to tea. He thought that it applied to all quasi-agricultural operations such as sugar manufacture, silk manufacture, etc. He was of opinion that it was not fair to tax such incomes.

THE SECOND MEMBER OF COUNCIL said that even at present they were being taxed and that the amendment did not propose to introduce any new tax.

THE FIRST MEMBER OF COUNCIL said that it was a principle of the Income-Tax Regulation that agricultural income was exempt from tax. But in cases of mixed agricultural and industrial or business incomes the portion attributable to the latter would be taxed.

THE COMMISSIONER OF INCOME-TAX said that even in such cases tax would be levied only when the income exceeded Rs. 2,400 per annum.

MR. B. NARASINGA RAO explained that if in addition to agriculture, business also was carried on, that portion of the income which accrued from business only was taxable. He referred to Section 59 of the Mysore Income-Tax Manual and said that the basis for assessing and apportioning the income was not specific and gave room for doubt. He said that the power to levy the tax already existed in the Regulation but only the amplification of the rule was now brought up to make the section more specific and to obviate certain difficulties to the quasi-agricultural concerns. In this view, he supported the amendment.

MR. P. SUBBARAMA CHETTY said that item No. (6) "Making the law more definite in respect of the assessment of the profits from import trade conducted in Mysore by agencies or branches of non-resident assessees," was not also clear and that difficulties would arise in practical working.

THE FIRST MEMBER OF COUNCIL stated that it would be found on a comparison of the existing and proposed sections that the latter was a clearer provision on the subject and no difficulty would be felt in practical working.

MR. P. SUBBARAMA CHETTY feared that if the amendment was brought into force the trade of the country would suffer.

THE FIRST MEMBER OF COUNCIL explained that trade would not suffer and that the amendment was meant to provide for recovery of the tax payable by non-residents who carried on trade in Mysore through agencies or branches.

MR. P. SUBBARAMA CHETTY said that for fear of double tax, the foreign traders might go away from the State and do their business outside the State. The people of Mysore would be put to difficulty in getting the foreign made articles from outside. Thus the proposed amendment was disadvantageous both to the country and to the Government.

THE FIRST MEMBER OF COUNCIL referred to Section 10 (4) and stated that the same income would not be liable to double tax.

MR. SHAMPUR PAPANNA observed that for the last 10 years no such amendment was proposed and he failed to understand why one should be brought now. He said that if the present change was agreed to, there would be difficulties in practical working.

THE COMMISSIONER OF INCOME-TAX explained that the amendment was meant only to apply to foreigners who carried on trade in Mysore. He said that Section 42 did not refer to Mysoreans but only to agents of foreign companies. The head note to the section clearly showed that it applied only to "non-residents." The branches of foreign companies did not maintain proper accounts of income and expenditure in Mysore and in some cases accounts which were written according to the advice of the head office were produced. An arbitrary amount was shown as expenditure in Mysore, not the actual expenditure. This arbitrary amount could not be accepted. Only the actual amount spent in Mysore for earning the profits in Mysore could be deducted from the income to find out the profits. The object of the proposed amendment was that.

When the amendment was put to vote, MR. SIDDALINGAPPA SETTY and some other members said that if Clause (9) was deleted, they would all agree to the rest.

MR. DYAVE GOWDA stated that he did not hope that tea cultivation in Mysore would be a success and therefore item (9) might be omitted.

The Bill with the exception of item (9) was put to vote and passed.

Item (9) was then put to vote.

MR. SIDDALINGA DEVARU said that if the amendment did not apply to agriculturists, he had no objection to it.

THE FIRST MEMBER OF COUNCIL and THE PRESIDENT assured the House that agricultural income would not be affected.

The item (9) was then put to vote and lost.

VI. Statement of General Principles regarding the Contempt of Courts Bill.

The Chief Court of Mysore has no statutory power to punish contempts of their proceedings committed out of court or of contempts of subordinate courts. Such a power is vested in the High Courts and Chief Courts in British India. It is obvious that without adequate protection to Courts of Justice in this direction they would lose their hold upon public respect and the maintaining of law and order would also be rendered ineffective. Hence it is necessary that the power of punishing for contempts should be vested in the Chief Court.

It is proposed that contempt of court may, when not otherwise provided by any law, be punished with simple imprisonment up to six months, or a fine which may extend to Rs. 2,000, or with both. Provision will be made for discharging the accused or remitting the punishment on apology being made to the satisfaction of the court.

The Chief Court will be empowered to take cognizance of any contempt in respect of itself or of a court subordinate to it, but it shall not do so when the contempt is punishable under the Indian Penal Code and is in respect of a subordinate court.

THE LEGAL REMEMBRANCER TO GOVERNMENT explained that under Section 480 of the Criminal Procedure Code certain offences committed under Sections 175, 178, 179 and 180 were treated as contempts of court and were tried summarily. For instance, he said that cases where persons refused to answer the questions put to them by the court and cases where insult was offered to any public servant while sitting in a judicial proceeding were treated as contempts of court and were punishable. It was also open to the court to file a complaint under Section 228 of the Indian Penal Code in which case, the offence could be tried in the ordinary way. But if the courts were insulted outside the court, the offenders could not be punished at present. The High Courts in British India had the power to try such offences whether committed in their presence or outside. Even there, there was difference of opinion whether High Courts could take cognizance of contempts of subordinate courts committed outside. The British Indian Act of 1926 gave such power to the High Courts and empowered the Chief Courts to deal only with such contempts of themselves.

In Mysore, the Chief Court had no power to punish contempts even of themselves committed outside the court. It was therefore proposed in the present Bill to give the same power to the Chief Court as was given to the High Courts in British India under the Act of 1926. The Bill contained only 4 sections and the cases coming under it were for the most part comments in the newspapers on *Sub judice* cases prejudicing the mind of the judge or jurors, etc. The object of the Bill, he said, was merely to give protection to the Courts of Justice so that they might not lose their hold upon public respect.

MR. K. SRIKANTIAH wanted to know if such comments on decided cases would amount to contempts of courts.

THE LEGAL REMEMBRANCER observed that that was a different matter.

MR. D. S. MALLAPPA wanted to know if there were any instances of the kind in Mysore.

THE THIRD MEMBER OF COUNCIL replied that some time ago there was an insulting remark against the Chief Court published in a newspaper about a case before it and the offending paper could not be punished as the court had no power. They had now applied for being invested with that power.

At this stage, many members were for assenting to the proposed measure.

MR. B. NARASINGA RAO said that the Bill must be fully discussed before consent could be given on the strength of the brief explanation given by the Legal Remembrancer. He thought cases of contempt of court were very rare in Mysore.

With regard to the definition of contempt given in clause 2 (1), he thought that it was very elastic and that any trivial remark with reference to the court might be brought under it. Even in British India such a definition was not apporved when the Bill was discussed and that it was omitted by the Select Committee. Besides, he said, there was a vast difference between the High Courts there established by Royal Charter and the Chief Court in Mysore.

THE PRESIDENT observed that the Chief Court of Mysore was in some respects more powerful than the High Courts of Judicature in British India.

MR. NARASINGA RAO while agreeing with the above view said that under the present condition of the Mysore Judiciary it was dangerous to entrust such a large power to the Chief Court. He had no objection to limit it in respect of only *sub-judice* cases. With regard to contempts in respect of subordinate courts, he said that even the Chief Courts in British India had not been given such a power. He wanted to know how any criticism after the case was decided could be classed as contempt.

THE LEGAL REMEMBRANCER replied that the latter would come under libel.

MR. NARASINGA RAO wanted such a thing in preference to the present measure. He said that he was not in favour of the present Bill placed before the House, as no regular trial would be conducted and no appeal would be allowed. He feared that even for a very slight mistake a

person might be convicted. He said that there was no such law before and that there was no need for it hereafter. The heads of departments and the members of Government were openly attacked by newspapers in regard to their administrative acts and he wanted the Judges also to avail themselves of the same law as was available to other Government Officers.

MR. NARASINGA RAO further stated that according to the proposed law the Chief Court would be empowered to take action not only in regard to contempts of themselves but also of subordinate courts. For instance, he said that if a man spoke or wrote even against a Bench Court, he would be convicted. He was of opinion that such a law interfered with the liberty of a person. The effect of the law was already making itself felt in British India. He drew the attention of the Government to the judgment in the "Searchlight" case at Allahabad, in this connection. He said that while even the Members of Government had no power to protect themselves against insults, he failed to understand why courts should be placed above Government. If, however, Government wanted to provide for contempts, they might give the offenders the benefit of a regular trial.

THE THIRD MEMBER OF COUNCIL said that it was true that in the Legislative Assembly the definition of contempt was omitted for the reason that they thought that the case law there was sufficient to guide the courts. If Mr. Narasinga Rao thought our definition was too wide, it was possible to limit its scope in the Select Committee.

THE SECOND MEMBER OF COUNCIL added that it was after all a matter of detail which might be considered in the Select Committee.

MR. NARASINGA RAO said that the interference with the liberty of a person could not be a matter of detail. In the present state of judiciary in Mysore, he thought that it would be more advisable if contempts against Chief Court alone were brought under the Bill. He thought that the wholesale grant of the power to all the courts would have the effect of oppressing the people.

THE SECOND MEMBER OF COUNCIL said that the object of the Government was not to oppress the people but only to protect the judiciary from statements and writings against the acts of the courts when the proceedings are going on.

MR. B. NARASINGA RAO had no objection to the principle enunciated by the Second Member of Council. The

only point that he would lay stress upon was that the Chief Court should not be given power to deal with contempts of the subordinate courts. He was for allowing the subordinate courts to take action for contempts in a regular legal manner. He had, however, no objection to limit the operation of the amendment *sub-judice* cases only.

MR. D. S. MALLAPPA said that there was no necessity for such a measure at all. He did not believe that there were people in Mysore who wrote or spoke against the Chief Court. He wanted protection to the people in the first instance because, in the Assembly many members spoke about things going on in the Chief Court and if such matters were brought under the operation of the proposed legislation, he was sure that the members would be harassed in a court of law. It was only after such protection was given to the people that protection to the court should be thought of. If, instead of this, the Government wanted to vest such power in the Chief Court all that he asked for was that there should be a regular trial instead of summary proceedings. He thought that many statements made in regard to the working of the courts might be treated as contempts although such statements might be based on facts.

MR. RAMDOSS discussing the definition said that lawyers handling the cases in courts might by signs or speech point out to the judges their mistakes, etc., which might be taken as contempts. He thought that the definition gave too many loop-holes to the courts to take summary proceedings against any statements made against them whether true or false. In these circumstances he thought that a law of the kind proposed was not necessary in Mysore at all.

MR. PUTTASWAMI thought that because a similar law was in force in British India, it was no argument to introduce it in Mysore. If that were the case there was the Rowlat Act in force in British India and the Mysore Government might later on introduce that act also here. Under the proposed law discussions in the law journal also might be brought under the operation thereof and the Chief Judge might prosecute the writer for contempt.

MR. K. T. BHASHYAM IYENGAR also thought that such a law in Mysore was quite uncalled for. The object of the Government might be to preserve the sanctity of the courts of justice as of temples but the principle of the law was so wide that any meaning or interpretation that was not meant

by the writer could be attached to the statement made in the law journal. He was therefore opposed to the measure.

THE SECOND MEMBER OF COUNCIL observed that there were similar courts and law journals in British India and no such difficulties as were brought to notice in this Assembly appeared to have been experienced in British India.

Mr. BHASHYAM IYENGAR thought that there was no object in giving a special power to the Chief Court. If any contempt was committed it was open to the Chief Court to prosecute the persons at fault for defamation. He did not think that the liberty of the persons should be sacrificed for that purpose. He was of opinion that an addition of one section to the Indian Penal Code might obviate all the alleged inconveniences to the courts. If the Indian Penal Code were amended in that way, the proceedings would be regular and the decisions appealable. He agreed that the object of the Government in trying to introduce such a measure was good but the remedy suggested therein was not advisable.

THE THIRD MEMBER OF COUNCIL drew the attention of the member to Clause 4 of the Bill about procedure from which it was apparent that the Chief Court would follow the provision of the Code of Criminal Procedure which would make it quite a regular trial.

MR. K. T. BHASHYAM IYENGAR replied that that would not make the decision of the Chief Court appealable. The difficulty was that in a case of that kind the prosecutor and the judge would be the same person. He thought that this was wrong. If, on the other hand, the Indian Penal Code was amended, it would be a real protection both to the people as well as the judges. He did not think that the inherent rights of the people for appeal in such cases could be taken away by special legislation of the kind proposed. He also drew the attention of Government to Clause 4 (1) under which the Chief Court would make rules prescribing the procedure in such proceedings. That would at one stroke take away all the inherent rights of the people.

MR. VEMA REDDI observed that the tendency in Mysore was to give more and more privileges to the people and not to curtail their freedom. He thought that the officers of Government should have a genuine fear of public opinion against them. They should not go about with the idea that they could do anything they liked and that they should not be criticised. In this view he thought that no legislation to give protection to the courts was necessary.

THE SECOND MEMBER OF COUNCIL observed that there was no question of creating any fear, but that it was for preserving the dignity of the judges that the measure was proposed.

MR. VEMA REDDI replied that there was no trouble under the present conditions and secondly no need for legislation.

MR. PATEL BASAVAPPA and MR. VENKATRAMANE GOWDA also opposed the measure.

MR. DASAPPA agreed with Mr. Narasinga Rao in the opinion that even the criticism about the working of the courts might be treated as contempt.

THE THIRD MEMBER OF COUNCIL explained that whatever interfered with justice or discredited the courts of law would amount to a contempt and nothing more.

MR. DASAPPA thought that any criticism of a judgment of the Chief Court would be considered as lowering the dignity of the judges. He had, however, no objection to comment on *sub-judice* cases being treated as contempts. With reference to the proposal to amend the Indian Penal Code in preference to a separate legislation of the kind proposed he thought that it would make no difference in the result. However, he thought that the fine of Rs. 2,000 proposed in the measure was rather exorbitant and that it might be reduced to half. He also thought that a provision should be made for accepting the apology tendered by the offender and also that imprisonment for the offence should be taken away.

THE PRESIDENT observed that such details of the measure could be considered in the Legislative Council and that what was required to be ascertained at present was whether the Assembly would agree to the measure or not.

MR. C. NARASIMHIAH said that the litigants were generally illiterate and they often spoke all sorts of things about courts and judges and about lawyers communicating with the judges, etc. If the proposed law was passed he feared that anything spoken against the courts would be brought under contempt and that people would even be prevented from speaking or writing anything about the delays in the Chief Court also. He did not think, in the first place, that any law of the kind was necessary, in the next place, that there was any necessity for any specific definition of the term contempt and in the third place, that a reference to the subordinate courts was necessary. He added that a similar law was brought into force in British

India so recently as 1926 and that the Government might wait for sometime to see how it worked there.

THE THIRD MEMBER OF COUNCIL said that so far there were no complaints that the law was operating badly in British India.

MESSRS. VENKATRAMANE GOWDA and G. CHANNAPPA thought that there was no necessity for such an extraordinary piece of legislation.

MR. SUBBA NAIK had no objection provided contempt was limited to *sub-judice* cases.

MR. H. B. GUNDAPPA thought that after such a law was passed there would be no scope of forming any kind of public opinion in regard to the work of the Chief Court and that the liberty of the people to speak anything about the work of the courts generally also would be curtailed. He thought that a separate provision might be made for contempts in regard to *sub-judice* cases and that the present Bill was not necessary.

MR. RAJAGOPALA MUDALIAR said that in the present state of affairs in Mysore when there was so much party feeling among the people, a law of the kind proposed by Government would be a dangerous weapon and should not be enacted.

MR. GOPALACHAR said that the present subordinate judicial officers had not much experience of the world, they might commit mistakes and if the Bill were passed, any criticism of their acts might be brought under contempt. The Bill also referred to the Bench Magistrates against whom also there might be criticisms. In these circumstances he thought that the Bill was not required.

THE THIRD MEMBER OF COUNCIL enquired whether the members would be agreeable to bring only *sub-judice* cases under the operation of the Bill.

Many members agreed with this view.

MR. PUTTUSWAMI enquired whether a revised Bill giving effect to this decision would be brought up for consideration before the meeting.

THE PRESIDENT replied that only the general sense of the House was required and that the details could be worked up in the Legislative Council.

THE THIRD MEMBER OF COUNCIL said that it was not necessary to bring a revised Bill again before the Representative Assembly unless a new principle was introduced.

MR. PUTTUSWAMI said that it was quite necessary that the full Bill should be brought up before the Assembly again.

THE THIRD MEMBER OF COUNCIL replied that that was not the rule. Under the rules the Government had the option of either bringing the text of the Bill or not before the Assembly. He however added that if a new principle was introduced the matter would be brought up again before the Assembly. But if there was no new principle, that was not correct procedure.

MR. E. KRISHNAPPA opposed the entire Bill and added that if the Government wanted it, it might be limited to Chief Court only.

At the request of a large number of members the question whether the Bill as a whole was necessary or not was put to vote. The House was not in favour of the Bill not even if it was restricted to *sub-judice* cases.

VII. Statement of General Principles to amend the Civil Procedure Code.

With a view to afford facilities to the insured in the Official and Public Branches of the Mysore State Life Insurance and to the public in general for making provision for the maintenance of themselves or of their dependents in the form of assured incomes for a term of years, Government have recently sanctioned a scheme of "Term Annuities" or "Income Policies" according to which annuities for a term of years up to a maximum period of 30 years may be purchased from the Mysore State Life Insurance Committee by making lump sum payments. The scheme is intended to promote thrift and encourage the habit of making provision for persons who for one reason or another may not be able to provide for their own maintenance. A provision of this nature requires protection for securing the object in view. It is accordingly proposed to exempt from attachment by Civil Courts, annuity payments not exceeding Rs. 1,200 per annum.

THE FIRST MEMBER OF COUNCIL explained the general principles.

The measure was approved by the House.

At this stage, THE THIRD MEMBER OF COUNCIL explained to the House that there was one other Government business which was not included in the agenda and that referred to the Land Mortgage Banks. The decision of the House in regard to that question had already been given at the previous session. If the House would only waive the 10 days' rule, Government would be prepared to place before

them the general principles of a Bill on that matter on the following Friday, in other words he wanted that the ordinary rule of business in regard to discussing that subject should be suspended.

The House was agreeable to discuss the measure.

REPRESENTATIONS.

No. 109.—Changing the Ceylon type of school buildings.

Mr. Puttaveerabhadrappa, Madhugiri Taluk, and all the other members from the Tumkur District.

MR. PUTTAVEERABHADRAPPA said that primary school buildings which were now constructed on the Ceylon pattern were inconvenient to boys, especially young children, during summer and in the rainy season. In villages, the furniture of the school was exposed to sun and rain and deteriorated soon and there would also be loss on account of damage. He therefore requested that the construction of primary school buildings as per Ceylon plan might be kindly abandoned and buildings of the old pattern constructed.

THE THIRD MEMBER OF COUNCIL replied that a new design was being prepared at Bangalore and if it was found convenient it would be introduced into the whole State.

No. 110.—Establishment of a Primary School in each Village Panchayet area.

Messrs. D. S. Mallappa, Tiptur Taluk; G K. Mallappa, Tiptur Municipality and M. Basaviah, Tiptur Taluk.

MR. D. S. MALLAPPA prayed that in addition to the education cess to be realised in the area comprised by each Village Panchayet, sufficient Government grant be sanctioned and at least a primary school established in each Village Panchayet area.

THE DEWAN replied that this could not be done.

No. 111.—Opening of the Music School in each district.

Mr. C. Kempanna, Minority Interest, Tumkur.

MR. KEMPANNA said that Government were pleased to promise to open a music school for the benefit of the Nayanaja Kshatriya community in every district. As a result a school has been sanctioned at Bangalore. Similar schools might be kindly opened in every other district.

THE DEWAN said that the representation would be noted for consideration. He added that if private schools were opened and Government grant applied for, the request would be favourably considered.